IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 8080 of 2004(J)

PETITIONER:

A.R.PRADEEP KUMAR,
ASSISTANT DEVELOPMENT COMMISSIONER, NOW WORKING AS LECTURER, STATE INSTITUTE OF RURAL DEVELOPMENT, E.T.C. (P.O), KOTTARAKKARA, KOLLAM DISTRICT.

BY ADV. SRI.C.P.SUDHAKARA PRASAD
SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH

RESPONDENTS:
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1. THE PRINCIPAL SECRETARY TO GOVERNMENT, GENERAL ADMINISTRATION (SE) DEPARTMENT, GOVERNMENT SECRETARIAT, THRIRUVANANTHAPURAM.

2. THE COMMISSIONER FOR RURAL DEVELOPMENT, L.M.S. BUILDING, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 8080/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE MEMO NO. 91376/SA3/93/GAD DT. 8/10/93 BY THE DEPUTY SECRETARY TO GOVT.

EXT.P2. COPY OF THE ORDER GO MS NO. 42/95/GAD DT. 28/1/95 BY THE GOVT.

EXT.P3. COPY OF THE ORDER NO. 7/96/GAD DT. 18/1/96 BY THE GOVT.

EXT.P4. COPY OF THE REPRESENTATION DT. 19/2/98 BY THE PETITIONER BEFORE THE GOVT.

EXT.P5. COPY OF THE COMMUNICATION NO. L.DIS D1/694/98 DT. 16/3/98 FROM THE ASST. DEVE. COMMR. TO THE R2.

EXT.P6. COPY OF THE REPRESENTATION DT. 20/08/98 BY THE PETITIONER TO THE GOVT.

EXT.P7. COPY OF THE COMMUNICATION NO. 94827/SE1/99/GAD DT. 26/8/00 BY THE GOVT.

EXT.P8. COPY OF THE REPRESENTATION DT. 9/6/03 BY THE PETITIONER BEFORE THE GOVT.

EXT.P9. COPY OF THE GO MS NO. 1020/96/LEG. DT. 25/10/96 BY THE GOVT.

EXT.P10. COPY OF THE JUDGMENT DT. 20/2/2003 IN OP NO. 6005/2002 OF THIS COURT.

RESPONDENT'S ANNEXURE

ANNEXURE R1: COPY OF THE ORDER DT. 15/10/2005 BY THE COMMISSIONER FOR RURAL DEVELOPMENT.

True copy

tga

V. GIRI ,J.

WP(C).NO. 8080 of 2004

Dated this the 31st day of October, 2007

JUDGMENT

The writ petitioner, while working as a Senior Grade Assistant in the Administrative Secretariat, was appointed as a Block Development Officer (BDO) in the Rural Development Department. Before confirmation in the post of BDO, he sought for a repatriation to the parent department as per Ext.P4. Though his request was originally rejected, pursuant to the declaration of law by a Full Bench of this Court in ***Balakrishnan Nair*** v ***Ram Mohan Nair***(1998(1) KLT 766), he made a further request under Ext.P6. First respondent gave a reply stating that the Supreme Court had granted an order of status quo in the special leave petition against the judgment of the Full Bench. Thereafter the Full Bench judgment was confirmed by the Supreme Court in ***Ali v State of Kerala***(2003(2) KLT 922). Therefore the petitioner renewed his request under Ext.P8.

2. Now that the law has been declared by the Supreme Court holding that government servants are entitled to seek reversion to the parent department before their confirmation in the transferee department, the respondents are liable to consider the petitioner's request in the light of the judgment of this Court. It is also necessary to note that an order was passed by the Commissioner of Rural Development confirming 273 Block Development Officers including the petitioner in their respective posts even before the completion of their probation. Some of those persons who were confirmed as BDO had approached this Court in Writ Petition No.23343/2004 in which this Court, as per judgment dated 13.7.2007 held that no person can be confirmed in the post before declaration of his probation. The order confirming the petitioner in the said post,which is produced as Annexure-R1(a) in the counter affidavit filed in the review petition, is liable to be ignored, insofar as the petitioner is concerned.

3. In the circumstances, the writ petition is disposed of directing the first respondent to pass further orders on

Ext.P8, within a period of one month from the date of receipt of a copy of this judgment, in the light of the judgment of this Court dtd.13.7.2007 in Writ petition No.23343/2004.

V. GIRI, JUDGE

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